

## HAWAII ADMINISTRATIVE RULES

### TITLE 12 DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

#### SUBTITLE 6

#### OFFICE OF EMPLOYMENT AND TRAINING ADMINISTRATION

#### CHAPTER 505

#### STATE PROGRAM FOR DISLOCATED WORKERS

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**§12-505-1 Scope and purpose.** (a) This chapter establishes a dislocated worker training and employment program in the State.

(b) Programs developed in this chapter are designed to provide training and employment services including, but not limited to, counseling, job training, employment assistance, relocation assistance, and supportive services for dislocated workers. [Eff. 8/25/83] (Auth: HRS §371-7) (Imp: SLH 1983, Act-195, §1)

**§12-505-2 Definitions.** As used in this chapter, unless the context clearly indicates otherwise:

"Department" means the department of labor and industrial relations.

"Director" means the director of labor and industrial relations.

"Dislocated worker" means an individual who:

- (1) Has been terminated or laid-off or who has received a notice of termination or lay-off from employment, is

- eligible for or has exhausted entitlement to unemployment compensation, and is unlikely to return to the person's previous industry or occupation; or
- (2) Has been terminated, or who has received a notice of termination of employment, as a result of any permanent closure of a plant or facility; or
- (3) Is a long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including any older individual who may have substantial barriers to employment by reason of age.

"Handicapped" or "handicapped individual" means any individual who has a physical or mental disability which for that individual constitutes or results in a substantial handicap to employment.

"JTPA" means Job Training Partnership Act, Public Law 97-300, 96 Statute 1322 (29 U.S.C. 1501 et seq.), its amendments, and related rules and regulations.

"Relocation assistance" means the activities necessary to arrange for a family to move to a new abode for the purpose of accepting long-duration employment. Activities may include but are not limited to the cost of the actual transfer of goods and property, including the family's travel, emergency assistance, rent subsidies, and other supportive services.

"Subrecipient" means any agency, organization, or other entity which receives JTPA funds either directly or indirectly from the State.

"Supportive services" mean services which are necessary to enable a dislocated worker who cannot afford to pay for the services to participate in a training program funded under JTPA or Act 195, Session Laws of Hawaii, 1983. These services may include transportation, child care, meals, temporary shelter, financial counseling, and other reasonable expenses required for participation in the training program and may be provided in-kind or through cash assistance. [Eff. 8/25/83] (Auth: HRS §371-7) (Imp: SLH 1983, Act 195, §1)

**§12-505-3 Administration.** The director shall administer this program in accordance with the JTPA, applicable federal rules and regulations, Act 191, Session Laws of Hawaii, 1983, and this chapter. (Eff. 8/25/83] (Auth: HRS §371-7) (Imp: SLH 1983, Act 195, §1)

**§12-505-4 Designation of subrecipients.** (a) To serve as a subrecipient, an agency or organization shall provide job training and related employment services.

(b) The director may impose additional eligibility requirements if it is deemed essential for the accomplishment of the program goals

and objectives. These requirements shall be specified in the information provided to applicants for program sponsorship.

(c) Applications to be a subrecipient shall be submitted in the manner and form prescribed by the department.

(d) The director may assign a program to an agency or organization if it is determined that the objectives of the program can best be achieved by that agency or organization. [Eff. 8/25/83] (Auth: HRS §371-7) (Imp: SLH 1983, Act 195, §1)

**§12-505-5 Authorized activities.** (a) Funds shall be used to assist eligible individuals to obtain unsubsidized employment through training and related employment services which may include:

- (1) Job search assistance, including job clubs;
- (2) Job development;
- (3) Training in jobs skills for which demand exceeds supply;
- (4) Supportive services, including commuting assistance and financial and personal counseling;
- (5) Pre-layoff assistance; and
- (6) Programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of closure of plants or facilities.

(b) Relocation assistance may be provided if the department determines:

- (1) That the individual cannot obtain employment within the individual's commuting area; and
- (2) That the individual has secured suitable long-duration employment or obtained a bona fide job offer in a relocation area. [Eff. 8/25/83] (Auth: HRS §371-7) (Imp: SLH 1983, Act 195, §1)

**§12-505-6 Use of funds.** (a) Federal funds shall be expended for program cost categories attributable to participant training, administration, and other participant support costs. The following are examples of permissible costs within the three cost categories:

- (1) Participant training costs include but are not limited to: Costs associated with on-the-job training and services; classroom training costs that represent instructional costs which have a direct and immediate impact on participants, such as remedial education; job development; and job search assistance, including preparation for work and labor market orientation.
- (2) Administrative costs include the direct or indirect costs, or both, associated with the supervision and management of the program.
- (3) Participant support service costs include services which are necessary to enable an individual eligible for training under the JTPA or Act 195, Session Laws of

Hawaii, 1983, but cannot afford to pay for such services, to participate in the training.

(b) Subrecipients shall not expend more than fifteen per cent of their assigned Federal funds for the cost of administration and not more than thirty per cent of their assigned Federal funds for the cost of administration and participant supportive service costs.

(c) Use of other funds and assignment of cost categories not clearly defined above which is necessary for the implementation of the projects, such as matching funds shall be determined by the director. [Eff. 8/25/83] (Auth: HRS §371-7) (Imp: SLH 1983, Act 195, §1)

**§12-505-7 Consultation with labor organizations.** Assistance programs which will provide services to a substantial number of members of a labor organization shall be established in consultation with the labor organization. [Eff. 8/25/83] (Auth: HRS §371-7) (Imp: SLH 1983, Act 195, §1)

**§12-505-8 Program review.** (a) Except for programs of assistance operated on a statewide or industry-wide basis, the director shall allow a thirty-day period for review and recommendation by the appropriate private industry councils and chief elected officials of the service delivery areas.

(b) The director shall inform the appropriate persons in writing of the final decision and provide any explanation if the final approval is contrary to any recommendations of those officials. [Eff. 8/25/83] (Auth: HRS §371-7) (Imp: SLH 1983, Act 195, §1)

**§12-505-9 Operational reports.** Each subrecipient shall prepare and submit timely operational reports as requested by the department. [Eff. 8/25/83] (Auth: HRS §371-7) (Imp: SLH 1983, Act 195, §1)

**§12-505-10 Financial management system.** (a) In accordance with department guidelines, each subrecipient shall establish and maintain a financial management system that will provide accurate, complete, and current disclosure of the financial status of the program activity.

(b) The director or authorized representative shall have access to any books, documents, papers, or records relevant to the program.

(c) Each subrecipient shall prepare and submit timely financial reports as requested by the department. [Eff. 8/25/83] (Auth: HRS §371-7) (Imp: SLH 1983, Act 195, §1)

**§12-505-11 Reallocation of funds.** (a) The director may reallocate funds when:

- (1) A subrecipient does not meet performance standards; or
- (2) A subrecipient does not comply with or is in violation

of the appropriate federal or state law and rules and regulations, and department directives; or

- (3) The director determines the unobligated portion of the subrecipient's funds should be used elsewhere.

(b) Prior to any reallocation, the director shall notify the subrecipient in writing of the specific reasons for the reallocation decision. This notification may also include the temporary stoppage of funds to the subrecipient if the director determines it is necessary for the safeguarding of the funds.

(c) The subrecipient may request a reconsideration of the decision by submitting in writing, within fourteen days from the date of notification, its reasons why the reallocation should not be implemented.

(d) The subrecipient shall be given at least fourteen days notice prior to the final decision to reallocate funds. This notice shall include:

- (1) Revocation of the program contract in whole or in part; or
- (2) Permanent stoppage of payments; or
- (3) Requirement for the refund of expended or unexpended funds.

(e) Recovered funds may be reallocated to an alternative subrecipient. [Eff. 8/25/83] (Auth: HRS §371-7) (Imp: SLH 1983, Act 195, §1)

**§12-505-12 Program monitoring and evaluation.** (a) The department shall monitor and evaluate programs of assistance to determine the overall effectiveness and impact of the program activities.

(b) Monitoring and evaluation functions shall include:

- (1) On-site visitations; and
- (2) Analysis of operational and financial reports.

(c) At least once every two years, the State shall have an independent financial and compliance audit of each subrecipient. [Eff. 8/25/83] (Auth: HRS §371-7) (Imp: SLH 1983, Act 195, §1)

**§12-505-13 Retention of records.** All records, reports, and documents shall be retained by the subrecipient for a period of six years, or as specified by the director, commencing with the termination date of the contract. [Eff. 8/25/83] (Auth: HRS §371-7) ((Imp: SLH 1983, Act 195, §1)

**§12-505-14 Program closeout procedures.** (a) The closeout of the program is the process by which subrecipients insure that all administrative actions and required work have been completed.

(b) The subrecipient, within forty-five days of the closeout date, shall:

- (1) Return unencumbered funds to the department; and

(2) Submit final operational, financial, and other reports as determined by the director.

(c) A financial audit shall be conducted by the department within one year of the closeout date. [Eff. 8/25/83] (Auth: HRS §371-7) (Imp: SLH 1983, Act 195, §1)

**§12-505-15 Discrimination and political activities.** (a) No person shall be excluded from participation in the program on the basis of race, sex, age, religion, color, ancestry, physical handicap, marital status, or arrest and court record which does not have a substantial relationship to the functions and responsibilities of the prospective or continued employment.

(b) No activity under this program shall involve political activities. Personnel employed in the administration of the program, while on the job, shall not engage in the conduct of political activity.

(c) Participants, when engaged in program activities, shall not engage in political activities. Subrecipients shall notify participants of this requirement.

(d) When the director determines that a subrecipient has failed to comply with this section, the director shall initiate appropriate action, including the possible invocation of section 12-505-11. [Eff. 8/25/83] (Auth: HRS §371-7) (Imp: SLH 1983, Act 195, §1)

**§12-505-16 Coordination with other programs.** The director shall initiate planning for the:

- (1) Coordination of dislocated worker programs with other job training, education, and placement activities;
- (2) Integration of job training and placement activities with public assistance and other income support programs; and
- (3) Development of linkages among training programs, employers, and economic development agencies to ensure that training outcomes are relevant to the needs of industry. (Eff. 8/25/83] (Auth: HRS §371-7) (Imp: SLH 1983, Act 195, §1)